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AF/S

Patent Application  
Attorney Docket No.: 56130.000064  
Client Reference No.: 12693RXUS01U

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :  
Barry E. Ambrose : Group Art, Unit: 2145  
Appln. No.: 09/736,210 :  
Filed: December 15, 2000 : Examiner: Adnan M. Mirza  
For: SYSTEM AND METHOD FOR :  
MANAGING DATA TRANSMISSION :  
FROM A TFTP SERVER BY :  
SPECIFYING A MAXIMUM :  
BANDWIDTH :  
:

Mail Stop: AF  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

REQUEST FOR PRE-APPEAL BRIEF CONFERENCE

Pursuant to the Pre-Appeal Brief Conference Pilot Program announced in the Official Gazette, Applicants hereby request a pre-appeal brief conference in the above-referenced case.

This application is appropriate for a pre-appeal brief conference. A brief history of this application and why applicants believe that an appeal will succeed are set forth below.

This application was filed over four years ago on December 15, 2000. In June 2004, an initial Office Action was issued, rejecting all 22 claims under 35 U.S.C. § 103(a) as being

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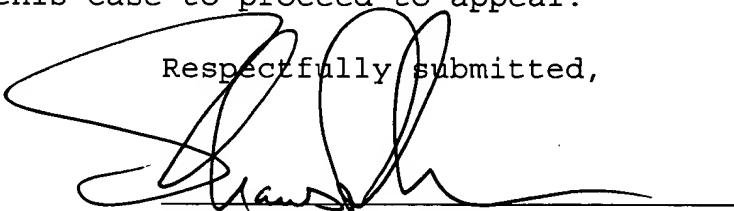
obvious over Takashima et al (U.S. Patent No. 6,563,794) and Naegeli et al. (U.S. Patent No. 6,574,797).

Despite various attempts to distinguish this application from the cited references, the Office continued to issue Office Actions rejecting all claims in view of the Takashima et al. and Naegeli et al., that are certain to be overturned on appeal. Rather than further time being spent addressing these references, Applicants have elected to pursue the new pilot program.

As set forth in greater detail in Applicants' responses dated September 27, 2004, and May 18, 2005, the cited references, taken either singly or in combination, fail to teach or suggest the combinations set forth in the pending claims. For example, the cited references fail to teach or suggest the claimed step of "determining a delay for the at least one data transmission based on the maximum bandwidth specified," and other express recitations of the pending claims. Further, Applicants respectfully submit that the rejections fail to provide any motivation or suggestion of the desirability of modifying the structures or methods to arrive at the claimed combinations. Applicants submit that the pending claims are allowable over the cited references.

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For these reasons, applicants request an appeal conference be convened to advise Applicants whether the Office will 1) allow the present claims, 2) reopen prosecution and issue a new office action or 3) allow this case to proceed to appeal.

  
Respectfully submitted,

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Date: August 16, 2005